IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.161 of 1996
Date of decision: 19.9.2006

The Commissioner of Income Tax, Patiala

....Petitioner

versus

M/s Mahavir Spinning Mills, Chandigarh Road, Ludhiana

Respondent.

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Dr. N.L.Sharda, Advocate, for the revenue.

JUDGMENT:

Following question has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh, arising out of its order dated 10.3.1995 in ITA No.133/Chandi/90, in respect of assessment year 1986-87:-

> "Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in allowing extra shift allowance on generator and weighing scale?"

The assessee claimed extra shift allowance on generator and weighing scale which has been allowed by the Tribunal by recording a finding that the generator and weighing machine were part of plant and machinery and the assessee was entitled to extra shift allowance for the generator and the weighing scale.

The issue has been gone into by this Court in **CIT v. Saraswati**

**Industrial Syndicate Limited,** (2002) 257 ITR 779, wherein, it was held that generating set cannot be treated as independent of the whole concern and extra shift allowance has to be allowed taking into account the entire concern as one unit.

In view of the above, the question is answered against the revenue and in favour of the assessee.

(Adarsh Kumar Goel)
Judge

Sept. 19, 2006
'gs'

(Rajesh Bindal)
Judge